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www.msosocialsciences.com**Immigration Policy Recommendations for the Malaysian Government: Improving the Treatment of Migrant Workers****Elizabeth Tubong Merrall¹**¹Politics and Philosophy, Durham UniversityCorrespondence: Elizabeth Tubong Merrall (elizabethmerrall@gmail.com)**Abstract**

Although migrant workers in Malaysia account for a large proportion of the workforce, the Malaysian government is criticised as facilitators of their abuse. This has placed a significant strain on the Malaysian government's relationships with migrant workers' origin countries. In order to improve these important political relationships and retain migrant workers, the Malaysian government should consider immigration policy reforms that will improve the treatment of migrant workers. One key recommendation includes providing an impartial data source on migrant workers by creating a new migrant research subdivision in the Department of Statistics. The current Migration Survey Report is irregular and insufficient and Malaysian media is generally prejudiced against migrant workers. Another useful recommendation is to provide migrant workers with leaflets (in different languages and in simple terms) on their labour rights. This should be distributed at the border as well as online to ensure that migrant workers are entering the country aware of their rights and how to enforce them. This would help prevent common exploitative practices like passport retention. Foreign domestic workers should be provided with a separate guidebook as their labour situation is significantly more vulnerable and different to typical migrant workers. Nevertheless, exploitation often begins prior to arrival through recruitment agencies via debt bondage and forced labour situations. The Malaysian government should seek to diversify away from these agencies towards memorandums of understandings: a cheaper and better regulated alternative to ensure migrant workers' safety.

Keywords: migrant workers, abuse, policy, politics, immigration policy**Introduction**

In Malaysia, the relationship between migrant workers and immigration policy is contradictory. Estimates demonstrate a dependence on foreign workers (accounting for approximately 15% of the workforce) yet the Malaysian government faces criticism as facilitators of their abuse (Endo, 2018; Amnesty International Publications, 2010). The lack of support offered by the government is not unexpected: an Ipsos poll (2018) revealed that 'immigration control ([of] foreign workers) is Malaysians' biggest worry'. Nevertheless, as migrant workers are an 'integral part of Malaysia's economy' (Endo, 2017, para. 2) and society, immigration policy reforms should be centred around preventing their abuse. Such reform is particularly important if the Malaysian government wishes to maintain good relationships with its migrants' origin countries. Their relationship with Indonesia, for example, is currently under strain as the Indonesian government considers a ban on workers entering Malaysia due to reports of abuse (Renaldi, 2018). Three immigration policy recommendations that will

help reduce this abuse (and subsequently improve political relationships with migrant origin countries) include:

- i. creating a new subdivision for migrant research in the Department of Statistics,
- ii. providing information leaflets for migrant workers and a special guidebook for domestic workers at the border and online, and
- iii. diversifying recruitment approaches away from recruitment agencies towards government-to-government agreements.

A subdivision for migrant workers in the Department of Statistics

Negative public perceptions of migrant workers are not uncommon in Malaysia. A New York Times article written by Aw (2016) recognizes that migrant workers in 3D jobs (jobs that are ‘dangerous, dirty, and difficult’) are particular targets for criticism. Although 3D industries often experience labour shortages due to poor working conditions and low wages, groups have petitioned against the influx of low-income workers that could fill this labour gap. Aw (2016) uses the example of The Pertubuhan Rapat Malaysia group, which opposed the proposed influx of 1.5 million low-income Bangladeshi workers as the President of the group argued they would be a threat to national security by spreading disease, controlling the economy, and raping local women. Despite the fact ‘government statistics from 2013 showed that only 1 percent of crime in Malaysia was committed by foreigners’ (Aw, 2016), unfounded arguments like these continue to have a significant impact on how migrant workers are viewed and treated.

In contrast, advocacy groups like the Women’s Aid Organisation also petitioned the influx of low-income Bangladeshi workers, but on grounds other than xenophobia. They argued that illegal Bangladeshi workers currently present in Malaysia should be legalised and given these jobs. Nevertheless, the topic of illegal workers in Malaysia is highly controversial, as headlines like ‘8 Worrying Facts About Illegal Immigrants in Malaysia that You Should Know’ are constructed to agitate the public rather than inform (Kwan, 2018, title). However, anger towards illegal workers should be redirected at Malaysian employers for neglecting their responsibilities by knowingly hiring illegal workers or by failing to help them gain legal status (in 2017 an E-card programme offered to change the legal status of illegal workers but it required the co-operation of employers). The media’s focus on problematising migrant workers means that the Malaysian public mainly receive prejudiced opinions. Consequently, reliable and impartial data on migrant workers must be more readily available for the general public.

This objective can be achieved by creating a new subdivision dedicated to migrants in the Department of Statistics. Whilst the Migration Survey Report does attempt to solve the issue of misinformation, it is insufficient as it is irregular and focuses mainly on internal migrants (Department of Statistics Malaysia, 2016). Instead, a new subdivision for migrant research could conduct thorough polls and surveys to determine the effects, determinants, and distribution of migrant workers in Malaysia. Alternatively, the Department of Statistics could allocate funds to a Malaysian university to collate this information on their behalf – working similarly to ‘The Migration Observatory’ at the University of Oxford. This would be particularly beneficial as an independent research body would ensure data is not distorted in order to support proposed changes in immigration policy. The impact of this undertaking would be more informed and positive attitudes towards migrant workers since information is shown to change perception: individuals who received ‘official ... estimates of immigration as a percentage of a country’s population ... were less likely ... to say there were “too many” immigrants in their country’ (German Marshall Fund of the United States, 2014). However, whilst this policy recommendation bridges the information gap the Malaysian public receives about migrant workers, another information gap remains: the gap between migrants’ rights on paper and in practice.

Information leaflets for migrant workers and a guidebook for domestic workers

If migrant workers are unaware of their rights and therefore cannot enforce them, they become vulnerable to exploitation. In some cases, Malaysian employers perform the ‘pervasive but illegal practice’ of passport retention that ‘ties [migrant workers] to their employer and denies them [the] freedom to leave their job or the country’ (Pattison, 2016, para. 19). Pattison notes that these specific migrant workers, unsure of their rights or how to enforce them, were ‘forced to run away ... entering the illegal work market in an attempt to make some money’ (2016, para. 12). For migrants in the domestic work sector, the risk of abuse is significantly higher as domestic work is considered to be ‘the lowest class of employment’ (Arifin, p. 43). Furthermore, the hiring of domestic workers has been compared to owning a status item that reflects upon a family’s wealth and achievement (Ruhs and Chang, 2004, p. 72). The objectification of migrant workers, their assumed place in the Malaysian class hierarchy, and their exclusion from typical labour laws means it is vitally important that they know and enforce their rights. Consequences of unenforced rights can be extreme: in 2014, an Indonesian domestic worker was deliberately starved by her employers and died as result of neglect and abuse (AFP, 2014). Although a shocking and extreme example, this is not an isolated case.

One simple method of ensuring migrant workers are aware of their rights and are therefore able to enforce them is by providing them with informational leaflets on their labour rights at the border as well as online. A similar method has been adopted by the South African Domestic Service and Allied Workers’ union (SADSAWU) whereby members of the group visit public places that domestic workers typically visit in the aim of distributing informational leaflets (ILO, p. 12). It is also worth noting that these labour rights leaflets should be available for workers in different translations and in layman’s terms, as ‘technical legal language ... [can be] very hard to follow’ (Halliday and Schmidt, 2004) and is one of the reasons why this gap exists.

Foreign domestic workers should also have an information guide, but as their ‘exclusion ... from the local labour law makes them more vulnerable ... [as] victim[s] of human rights violation[s]’ (Arifin, 2012) – employers hold sole responsibility for their health care and living accommodation (Ministry of Home Affairs, n.d.) – they should be given their own separate guidebook. As well as being available online and distributed at the border, this guidebook should be present within the employer’s household at all times for the domestic worker’s reference. Nevertheless, if employers withhold the guidebook, domestic worker activists could help provide them. In Trinidad and Tobago, activists try to encourage domestic workers to approach them in public by wearing t-shirts with slogans about domestic work – combined with handing out guidebooks, this could be a very effective tool for improving domestic workers’ knowledge of their rights and how to enforce them. (ILO, p.12). Moreover, according to clause 59 of the Malaysian Employment Act of 1955, domestic workers must have one day off each week. This increases the likelihood that they will be able to approach public activists.

Whilst the Ministry of Human Resources has already produced a guidebook for employers of domestic workers to inform them of their worker’s rights, it seems counterintuitive to only provide employers with this information as some employers may be intentionally abusive (Ministry of Human Resources Malaysia, 2017). Foreign domestic workers should not be dependent upon the goodwill of their employer. Having access to guidebooks (whether it is in their employer’s home, in their room, or in the hands of activists on the street) will increase domestic workers’ autonomy and their ability to enforce their rights. However, for some foreign workers, exploitation begins prior to arrival.

Diversification of recruitment approaches away from recruitment agencies towards government-to-government agreements

‘The outsourcing system of migrant workers introduced in 2007’ has given recruitment agents a large amount of power, as they play the ‘role ... [of] coordinators, managers or guardians ... that can control employers, mediate between them and migrant workers’ (Arifin, 2012, pp. 12-13). In fact, ‘the most severe problems that have occurred with the management of migrant workers stem from an inadequately regulated recruitment sector’ (ILO, 2016, p. 30). Many migrant workers will arrive in

Malaysia to find that agents have misinformed them about their jobs – from the amount of pay they will earn, the sector they will work in, their legal status, and even whether the job they were assigned to exists (Ruhs, 2013). One way recruitment agents deceive prospective migrant workers is by forcing them to pay expensive recruitment fees – causing them to accumulate large debts as they take out high interest rate loans to cover the cost and work ‘punishing hours of overtime’ (Pattison, 2016, para. 15) in order to repay their lenders. Other recruiting agents exert control over migrant workers through ‘threats of violence, ... restrictions on communication and [their] ability to return home’ (Human Rights Watch, 2011, p. 61). Nevertheless, migrant workers abused by their employers will often seek out their recruitment agencies in Malaysia for support. However, support is often not received: the Human Rights Watch (2011) was able to report several cases where recruitment agencies returned Cambodian domestic workers to their original abusive employer against their will and some recruitment agents abused the domestic workers themselves after receiving complaints about their work. Furthermore, the Human Rights Watch (2011) found domestic workers in Malaysia who are victims of child trafficking – enabled by the forging of identification documents by recruitment agents. Clearly, recruitment agencies are in dire need of increased regulation if the government is to permit their continued operation.

However, there is a better and safer alternative: a memorandum of understanding (MoU). A MoU could eliminate exploitative intermediary fees. Even if these fees are not borne by the migrant worker themselves, some employers will deduct money from workers’ remunerations to fund the recruitment fees (The Human Rights Watch, 2011). A successful government-to-government (G-G) MoU mechanism can be seen in the plantation sector between Malaysia and Bangladesh where there has been a ‘drastic reduction of migrant cost for workers by about 8 to 10 times – from a range of US \$3,000 to \$4,000 under private recruitment to about \$400 per worker under the G-G system’ (Wickramasekara, 2016, para. 4). This state-managed recruitment model could be expanded to all sectors and replicated with other countries to prevent the debt bondage and forced labour situations created by recruitment agencies. This model is particularly attractive because it is mutually beneficial for Malaysia and its migrants’ origin countries: reduced migration costs may increase remittances (shown to improve living standards and human development) (Ruhs, 2013) and reduce the number of workers taking on ‘second jobs ... to repay migration debts ... [who] then become irregular by working in a job for which they do not have a visa’ (Martin, 2014, p. 12). Moreover, as migrant origin countries’ governments would be directly involved in the emigration of their workers, there may be an increased incentive to ensure migrant workers’ welfare in order to protect key political relationships (most of Malaysia’s migrants originate from neighbouring low-income countries). Nevertheless, as MoUs can be non-binding, these agreements should be established with the intention of forming a contract in the future to formally guarantee the welfare of foreign workers (ILO, 2006).

Conclusion

Although these recommendations would significantly improve the working conditions of migrant workers, a further issue remains: workers who are abused and exercise their rights by filing a complaint against their employer can be dismissed and have their working permit revoked. Malaysian law stipulates that it is ‘illegal for a migrant labour to remain in the country once a contract has been terminated’ which means access to justice for migrant workers is made ‘effectively impossible’ (Rahim, 2015, p. 8). Consequently, Malaysian immigration policy must continue to progress and adapt if it wishes to improve the treatment of the foreign workers it so heavily relies on. Whilst the aforementioned policy recommendations may not be the solution to all of Malaysia’s immigration problems, they are certainly a step forward in the right direction.

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